

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Gilberto Brown

v.

Civil No. 07-cv-174-SM

United States of America

O R D E R

Re: (Document No. 7) Unopposed Motion to Vacate Writ,
Rescind Travel Orders, and Continue Hearing

Ruling: Granted, in part. This is an aging petition under 28 U.S.C. § 2255 that requires a hearing, as explained in the court's order dated February 8, 2008. Petitioner makes factual allegations that he can only establish by presenting supporting evidence which, in all likelihood, would include his testifying under oath. Petitioner seeks to continue the scheduled hearing and vacate the writ and transportation arrangements made to secure his presence, on grounds that he does not wish to disrupt his participation in a drug treatment program which may lead, on successful completion, to an earlier release from incarceration. No indication of when the referenced drug treatment program will be completed is contained in petitioner's motion. Obviously, the required hearing cannot be continued indefinitely. The motion is granted to this extent: the writ is vacated, the travel orders rescinded, and the hearing is continued by agreement. The defendant shall advise the clerk, promptly, when his drug treatment program will be completed and the court will reschedule the hearing. A lengthy delay will not likely be accommodated. Petitioner might wish to explore the availability of teleconferencing capabilities at the institution in which he is incarcerated, as he may be able to present his case by that medium, given that this is a civil case.


Steven J. McAuliffe
Chief Judge

March 3, 2008

cc: Bjorn R. Lange, Esq.
Aixa Maldonado-Quinones, AUSA